



## 1 APPEARANCES:

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5 Plaintiffs' Steering Committee

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11 CASNER & EDWARDS, (By Lynne F. Riley, Esq.), 303  
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15 Esq.), Seaport West, 155 Seaport Blvd, Boston,  
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## 18 VIA PHONE:

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22 Meghan Handy

23 PESSIN KATZ LAW, P.A., (By Catherine W. Steiner,  
24 Esq.), 901 Dulaney Valley Road, Suite 500, Towson,  
25 Maryland 21228, on behalf of the Box Hill Defendants

1 just discussed at the beginning.

2 And then the payment of administrative expenses, which  
3 is 3492-4, also needs to be granted. It's part and parcel  
4 of that full motion.

5 And then there will -- it has not yet been filed, but  
6 we will be filing with the Court a motion to assess the  
7 common benefit fee award against those settlement funds at  
8 some point in the near future once the settlement gets --

9 HONORABLE RYA W. ZOBEL: Should I allow these  
10 motions before you file the other one, the next one?

11 MR. STRANCH: Yes, your Honor.

12 HONORABLE RYA W. ZOBEL: Okay.

13 That brings us to D.

14 MS. JOHNSON: Yes, your Honor.

15 As the Court is aware, seven of the eight Box Hill  
16 cases were dismissed. There was a joint stipulation of  
17 dismissal filed earlier. There remains one case against Box  
18 Hill in the MDL, and that is the Handy case.

19 Counsel for --

20 HONORABLE RYA W. ZOBEL: Is there anybody here for  
21 the plaintiff in that case?

22 MS. JOHNSON: Mr. Coren, I believe, is on the  
23 telephone, your Honor.

24 HONORABLE RYA W. ZOBEL: Okay.

25 MR. COREN: Yes, your Honor. Michael Coren on

1       behalf of Meghan Handy, your Honor.

2               HONORABLE RYA W. ZOBEL: Let me ask you a question.  
3       This is the only case left. Do you want it tried here or in  
4       Maryland?

5               MR. COREN: Before your Honor in Massachusetts.

6               HONORABLE RYA W. ZOBEL: In that case Judge Boal  
7       will talk to you about -- you might as well do it now, since  
8       we're at that case -- about the discovery for that trial.

9               HONORABLE JENNIFER C. BOAL: As I understand it,  
10      the common discovery is done but no schedule has been set  
11      for case-specific discovery; is that correct?

12              MR. COREN: Correct, your Honor.

13              HONORABLE JENNIFER C. BOAL: And there are pending  
14      summary judgment motions as well; is that right?

15              MR. COREN: Correct, your Honor, as well as a  
16      motion to strike the Box Hill quartet of experts.

17              HONORABLE JENNIFER C. BOAL: There is a trial date  
18      that I believe was set for one of the other Box Hill cases  
19      for May -- it's either 4th or 14th. Do you think the case  
20      would be ready for trial by that date?

21              MR. COREN: I'm sorry --

22              MS. STEINER: I'm sorry, your Honor.

23              This is Catherine Steiner on behalf of Box Hill. What  
24      date did you say?

25              HONORABLE RYA W. ZOBEL: Where were you?

1 MS. STEINER: I'm here. I've been here all along.

2 HONORABLE JENNIFER C. BOAL: So my understanding is  
3 that on Judge Zobel's calendar right now there is a date of  
4 either -- I believe it's May 14 for a trial in this case,  
5 not the Handy case, but for one of the cases that settled,  
6 and my question was whether or not you would be ready for  
7 trial on that date?

8 MS. STEINER: Let me clarify, perhaps.

9 There was a date set on Judge Zobel's calendar for,  
10 like, February for the Karshi case, which was one of the  
11 selected bellwether cases. The Handy case had had discovery  
12 stayed pending that process. Karshi has now been dismissed.

13 The May date that Judge Zobel may be referencing is  
14 actually a date set aside in the Circuit Court for Harford  
15 County, Maryland, for the first of the bellwether cases to  
16 be tried here against Box Hill because --

17 HONORABLE RYA W. ZOBEL: I don't know what you're  
18 talking about.

19 HONORABLE JENNIFER C. BOAL: That date is on Judge  
20 Zobel's calendar.

21 MS. STEINER: I don't know whether it is or it is  
22 not, but logistically it would not have been because we are  
23 scheduled to be in trial in the Circuit Court for Harford  
24 County in the first of the bellwether cases there beginning  
25 on May 17.

1 HONORABLE JENNIFER C. BOAL: The question still  
2 remains -- I don't know if those cases are going forward,  
3 and all the other cases here have settled -- is May 14 an  
4 available date for the parties?

5 MR. COREN: From the plaintiff's perspective, your  
6 Honor, yes.

7 MS. STEINER: As a point of clarification, the  
8 other seven cases did not settle. They were voluntarily  
9 dismissed by the plaintiff.

10 There is --

11 HONORABLE RYA W. ZOBEL: Are those cases pending in  
12 the state court?

13 MS. STEINER: The cases -- the other cases that are  
14 pending are pending in state court, but --

15 HONORABLE RYA W. ZOBEL: But we have nothing to do  
16 with those. I mean, we had a bunch of cases. We picked  
17 certain of those for the bellwether trials, and now they are  
18 all gone except this one. And we're proposing to keep the  
19 trial date that we had previously set for that group of  
20 cases for the one remaining one.

21 MS. STEINER: But, your Honor, I think where the  
22 disconnect is coming from is the date that we had set aside  
23 for the bellwether case in the MDL was actually at the end  
24 of February, not in may.

25 HONORABLE JENNIFER C. BOAL: So you'll have even

1 more time. So why don't we schedule it for May.

2 MS. STEINER: But, your Honor, my client, Box Hill,  
3 is already scheduled to be in trial in Maryland in a steroid  
4 case pending in Maryland that we --

5 HONORABLE JENNIFER C. BOAL: Are those the cases  
6 that you just dismissed from federal court?

7 MS. STEINER: No. They are ones that were never in  
8 federal court.

9 HONORABLE RYA W. ZOBEL: So when do you say that  
10 the case should be tried here, the remaining case, Handy?

11 MR. COREN: Yes, your Honor.

12 MS. STEINER: We will, once again, be renewing out  
13 motion to remand, because it seems illogical to have a  
14 single case in an MDL. But we certainly will need a period  
15 of at least several months to complete case-specific  
16 discovery because there's been none.

17 HONORABLE JENNIFER C. BOAL: So that would be May.

18 MS. STEINER: Except that I'm at a little bit of a  
19 loss as to how we are going to try two case for same the  
20 client in two different states simultaneously.

21 HONORABLE JENNIFER C. BOAL: All right.

22 So if Judge Zobel's calendar permits it, I assume she  
23 could do it earlier if she had room.

24 HONORABLE RYA W. ZOBEL: When do you want to try  
25 it?

1 MS. STEINER: Your Honor, with all consideration, I  
2 don't think earlier is a possibility. I think later --

3 HONORABLE RYA W. ZOBEL: Why not?

4 MS. STEINER: Because there has been no  
5 case-specific discovery done.

6 HONORABLE RYA W. ZOBEL: Well, how much time do you  
7 need to do that?

8 MS. STEINER: Presumably at least the same amount  
9 of time that we had provided to us for the case-specific  
10 discovery that was in the bellwether process, and that was a  
11 matter of at least --

12 HONORABLE RYA W. ZOBEL: The bellwether cases were  
13 set, and they were all going forward until they settled, and  
14 they included Ms. Handy.

15 MS. STEINER: Your Honor, they didn't settle. They  
16 were voluntarily dismissed with no payment.

17 HONORABLE RYA W. ZOBEL: Well, whatever.

18 HONORABLE JENNIFER C. BOAL: And there was only  
19 three months provided for case-specific discovery anyway.  
20 And now you're saying you're not going to be ready with over  
21 five months. So that doesn't make sense.

22 MS. STEINER: Well, presumably we could set it in  
23 for sometime after May. We can't do them at the exact same  
24 point in time, and, given my trial calendar, the next  
25 available trial date would be, I believe --



1 HONORABLE RYA W. ZOBEL: Well, you know, we've  
2 asked you now, when do you want to try it, the one case?

3 MS. STEINER: That's what I'm trying to answer for  
4 your Honor.

5 HONORABLE RYA W. ZOBEL: Give me a date.

6 MS. STEINER: I believe we -- I would ask Mr. Coren  
7 to indicate, because I don't think he's ever had to before,  
8 how long he anticipates the plaintiff's case would last,  
9 because that will influence the amount of time and,  
10 therefore, the duration.

11 MR. COREN: My partner Harry Roth is going to be  
12 lead trial counsel, addressed this to Judge Zobel, you know,  
13 before. And we thought the whole case was going to be --  
14 you know, the whole trial, was going to be about two weeks,  
15 which is what I recall Judge Zobel believing what the length  
16 was going to be. And so that remains the same.

17 Your Honor, an April date, a May date, for Mr. Roth  
18 appears to work nicely, so whenever it's convenient for your  
19 Honor.

20 HONORABLE RYA W. ZOBEL: Well, is April good for  
21 you, who represents the defendant? I'm sorry. I don't know  
22 your name.

23 MS. STEINER: It's Catherine Steiner, your Honor.

24 HONORABLE RYA W. ZOBEL: April?

25 MS. STEINER: I have a two-week window of time

1 between trials beginning April 9.

2 HONORABLE RYA W. ZOBEL: Don't tell me what you  
3 have on the docket. Tell me when you want to try this case,  
4 please.

5 MS. STEINER: Well, as I hear Mr. Coren saying, he  
6 could try the case in April. If we have to try the case in  
7 April, we can try it April 9. If not then, it's not until  
8 the middle of July or September.

9 HONORABLE RYA W. ZOBEL: That's too long. We can't  
10 wait that long. I can't believe that the case has to wait  
11 that long.

12 MS. STEINER: Your Honor --

13 HONORABLE RYA W. ZOBEL: I mean, this is a  
14 four-year-old case, and it's time for it to go.

15 April is not possible?

16 MS. JOHNSON: I believe she proposed April 9.

17 HONORABLE RYA W. ZOBEL: April 9?

18 MS. STEINER: Yes.

19 HONORABLE RYA W. ZOBEL: April 9 it is.

20 MR. COREN: Very good, your Honor, and thank you.

21 HONORABLE RYA W. ZOBEL: I think we need to have,  
22 probably some time in mid March or early March, a pretrial  
23 conference, which we can also do by telephone.

24 So we will give you a date for that right now.

25 THE CLERK: Okay.

1 MR. COREN: Excellent. Thank you, your Honor.

2 THE CLERK: So we can do --

3 MS. STEINER: What date do we have for --

4 HONORABLE RYA W. ZOBEL: Lisa?

5 THE CLERK: I'm sorry. Maybe we can do March 14?

6 HONORABLE RYA W. ZOBEL: How about March 14 at 2:00  
7 by telephone, pretrial conference?

8 And what I wish to do at that is to discuss with you  
9 the process of the trial, how many jurors, talk about  
10 challenges, which may be different where you are from what  
11 we do here, talk about the issues to be tried, how we deal  
12 with depositions, and exhibits in general, and that kind of  
13 stuff.

14 So please be prepared for that, and we'll send you a  
15 notice of what we would normally ask for.

16 MR. COREN: Thank you, your Honor.

17 HONORABLE RYA W. ZOBEL: Is that okay then?

18 MR. COREN: From plaintiff's point of view, yes,  
19 your Honor.

20 HONORABLE RYA W. ZOBEL: And defendant?

21 MS. STEINER: That's fine.

22 What will --

23 HONORABLE RYA W. ZOBEL: I'm sorry. I have  
24 trouble -- excuse me.

25 I have great trouble hearing defense counsel. We all

1 call Ms. Urso and let her know that.

2 So January 25 at 2:00 I will either see you or, in one  
3 way or another, speak with you in support of and in  
4 opposition to the motion for summary judgment.

5 And if defense counsel will tell me how to cut down on  
6 the briefing, I would much appreciate that before then.

7 MS. STEINER: We will provide something, your  
8 Honor.

9 HONORABLE RYA W. ZOBEL: Thank you.

10 Is there anything else with respect to Box Hill that we  
11 need to talk about?

12 (No response.)

13 HONORABLE RYA W. ZOBEL: Now, I would like to --  
14 how much more do we have? I have a jury that's ready to  
15 report a verdict.

16 MS. JOHNSON: I think we can be done, your Honor.  
17 We've set the next status conference. Everything else is  
18 long-term matters that are identified for the Court's  
19 convenience and planning purposes, but I think we've  
20 addressed all the active items.

21 HONORABLE RYA W. ZOBEL: I guess that's right.  
22 We've gone through our list.

23 Okay. As usual, thank you, all.

24 MS. JOHNSON: Thank you.

25 MR. COREN: Thank you, your Honor.

1 HONORABLE RYA W. ZOBEL: Handy will remain with me,  
2 unless, of course, you decide to settle or dismiss, which  
3 would be nice.

4 MR. COREN: Well, settle, nice; dismiss, no.

5 MS. STEINER: And I would said the converse, your  
6 Honor, so it looks like we will see you soon.

7 HONORABLE RYA W. ZOBEL: Say that again.

8 MS. STEINER: I said, I would say the converse. I  
9 would be happy to accept a dismissal, and it's not going to  
10 be settled, so it looks like we'll see you soon.

11 HONORABLE RYA W. ZOBEL: Okay.

12 MR. COREN: Thank you, your Honor.

13 HONORABLE RYA W. ZOBEL: Thank you.

14 Farewell.

15 MS. JOHNSON: Thank you, your Honor.

16 MR. STRANCH: Thank you, your Honor.

17 HONORABLE RYA W. ZOBEL: Thank you.

18 THE CLERK: All rise.

19 (Proceedings adjourned.)  
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